DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 93-0869 CSET

**CONTROLLED SUBSTANCE EXCISE TAX
FOR TAX PERIODS: 1993**

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ISSUE

1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION

Authority: IC 6-7-3-5, IC 6-8.1-5-1(b).

Taxpayer protests the assessment of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of marijuana. The Indiana Department of Revenue issued a Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on September 7, 1993 in a base tax amount of $74,352.00. Taxpayer filed a protest to the assessment. A hearing on the protest was held by telephone on November 10, 1999. Taxpayer requested and was granted additional time to submit evidence.   Further facts will be provided as necessary.

Controlled Substance Excise Tax-Imposition

Discussion

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession of marijuana in the State of Indiana. Taxpayer contended that he was not in possession of the marijuana. The arresting officer's report indicates that Taxpayer was in possession of marijuana. He offered to send affidavits from others that would substantiate that he was not in possession of the marijuana. He never submitted the affidavits or any other evidence indicating that he was not in possession of the marijuana. Taxpayer bears the burden of proving that the assessment of tax is incorrect. IC 6-8.1-5-1(b). Since Taxpayer did not offer any evidence to contradict the facts of the file, Taxpayer did not sustain his burden of proving that the assessment was incorrect.

Finding

Taxpayer's protest is denied.

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